S.B.CIVIL WRIT PETITION NO.5919/2003

Daulat Ram
v.
State of Rajasthan & Ors.

DATE OF ORDER :: 14th May, 2007

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. R.S.Shekhawat for Mr.P.S.Bhati, for the petitioner.
Mr. S.S.Ladrecha, Additional Government Advocate.

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The petitioner, while holding the post of Head Constable in Rajasthan Police (MBC), submitted an application dated 18.1.2002 seeking voluntary retirement from service w.e.f. 30.4.2002 as per the provisions of Rule 50(1) of the Rajasthan Civil Services (Pension) Rules, 1996 (hereinafter referred to as "the Rules of 1996"). The Commandant, MBC, Kherwara, by an order dated 2.2.2002 conveyed acceptance of the application dated 18.1.2002 for voluntary retirement of the petitioner w.e.f. 30.4.2002. After acceptance of the request for voluntary retirement the petitioner submitted an application dated 1.4.2002 intending to withdraw the request for voluntary retirement, however, the same was refused by the Commandant, MBC, Kherwara on 5.4.2002. Being aggrieved by the same, this petition for writ is preferred.

The contention of learned counsel for the petitioner is that the petitioner before coming into

force retirement from service w.e.f. 30.4.2002 made an application for withdrawing request for voluntary retirement, therefore, no reason was available with the respondents to deny withdrawal of the request for voluntary retirement.

Per contra, in reply to the writ petition it is contended by the respondents that once the retirement was accepted by the competent authority, there was no justification to withdraw the same.

Heard counsel for the parties.

From perusal of the application dated 1.4.2002, it is apparent that the petitioner in quite unambiguous terms stated that he made a request for voluntary retirement due to certain family problems, but due to subsequent changes in circumstances specially with regard to family problems request was made to withdraw intended resignation. The competent authority without assigning any reason just by mentioning “NO” rejected petitioner's request for voluntary retirement. It is well settled that a request to withdraw the intended voluntary retirement prior to coming into force the retirement sought should not be rejected in normal course and such rejection, if warranted, should contain reasons.

In the instant matter it is the position admitted that the petitioner withdrew the request for voluntary retirement prior to coming it into force and the competent authority rejected the same without assigning any reason, as such, the same is illegal.

Accordingly, this petition for writ is allowed. The retirement of the petitioner under Rule 50 of the Rules of 1996 is declared illegal and, therefore, the same is quashed. The respondents are directed to reinstate the petitioner in service with all consequential benefits.

No order to costs.

(GOVIND MATHUR),J.

Kkm/ps.